

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JOHNNY JACKSON and LATESIA
JACKSON,

Plaintiffs,

vs.

PEOPLES SOUTH BANK f/k/a
PEOPLES COMMUNITY BANK;
LARRY PITCHFORD, et al.,

Defendants.

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CIVIL ACTION NO.
2:06-CV-00021-WKW

**PLAINTIFFS' MOTION TO EXTEND TIME
TO FILE RESPONSIVE PLEADINGS**

COME NOW the Plaintiffs, Johnny Jackson and Latesia Jackson, and move this Court for an extension of time to file a responsive pleading to Defendant Larry Pitchford's Motion to Dismiss, or in the Alternative, Motion for Summary Judgment. In support thereof, Plaintiffs state as follows:

1. On January 9, 2006, Defendants Peoples South Bank and Larry Pitchford filed their Notice of Removal of this case from the Circuit Court of Barbour County, Alabama.
2. Also on January 9, 2006, Defendant Pitchford filed a Motion to Dismiss, or in the Alternative, Motion for Summary Judgment.
3. Plaintiffs filed a motion to remand, which is currently pending before the Court.

4. Any substantive rulings on any motion to dismiss or motion for summary judgment by this Court are inappropriate until the Court determines whether it has subject matter jurisdiction over this action. University of South Alabama v. American Tobacco Co., 168 F.3d 400, 405 (11th Cir. 1999); Franklin v. Palughi, 2001 WL 530434 (S.D. Ala., April 25, 2001) ("The Federal district court may not rule on other matters in the removed action until it first determines whether it has jurisdiction.").

5. Plaintiffs' responsive pleadings to Defendant Pitchford's Motion to Dismiss, or in the Alternative, Motion for Summary Judgment, would be different, both procedurally and substantively, if this matter were properly remanded to the Circuit Court of Barbour County, Alabama.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs request an Order of this Court providing Plaintiffs with additional time from the date of this Court's decision on Plaintiffs' motion to remand for Plaintiffs to file a responsive pleading to Defendant's Motion for Summary Judgment, if this Court determines that it has subject matter jurisdiction over this cause.

/s/ Ted Taylor
TED TAYLOR

/s/ Leah O. Taylor
LEAH O. TAYLOR

/s/ Gregory M. Zarzaur
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CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed this Motion so that service will be sent by the ECMF System via electronic mail to the following on this the 2nd day of February, 2006:

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